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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,979	01/21/2004	Richard A. Realmuto	NEXTEK-4500	4072
4988	7590	08/17/2006	EXAMINER	
ALFRED M. WALKER 225 OLD COUNTRY ROAD MELVILLE, NY 11747-2712			KAPLAN, HAL IRA	
			ART UNIT	PAPER NUMBER
			2836	
DATE MAILED: 08/17/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/761,979

Applicant(s)

REALMUTO ET AL.

Examiner

Hal I. Kaplan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12 and 14-43 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: Page 2, lines 29 and 31 contain the word "means". As the purpose of the specification is to enable one of ordinary skill in the art to make and/or use the invention, and one of ordinary skill in the art would not understand the terminology commonly used in patent claims, such as "means" and "said", they should be removed from the specification.

Abstract, line 17 contains the phrase "4500 bi-directional appl". This is unclear and appears to be an error.

Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the battery backup system of claim 13, the transformer and bridge of claim 40, and the MOSFET switch and IGBT of claim 41 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. The replacement drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 47 in Figure 5 (see page 9, line 6).

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 20 in Figure 1. Corrected drawing sheets in compliance with 37 CFR

1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claims 1, 3, 6, 8, and 13 are objected to because of the following informalities: Claim 1, lines 10 and 21 recite a "power junction means". It is unclear to the Examiner what this is, as it is not defined in the specification, and the drawings do not show power input paths from the AC source and alternative DC source intersecting anywhere except in the wiring at the output of the DC isolator. Claim 1, line 11 contains the phrase "voltage DC". It appears this should be "DC voltage". Claim 1 lines 31-32, the phrase "said alternative primary power source" lacks proper antecedent basis. Claim 3, line 13 contains the phrase "DC source being is an energy storage device". It appears this should be "DC energy storage device". Claim 6, lines 24-26 recite the limitation "circuitry for combining power from said alternative source of DC and said external DC energy storage device". The specification does not disclose what this circuitry is, and it is unclear how power is combined, as the power paths from the alternate DC power

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source and external DC energy storage device do not intersect, except in the wiring at the output of the DC oscillator. Claim 8, line 34 contains the phrase "a source of AC;". It appears this should be "a source of AC; and". Claim 13, line 18 contains the phrase "feeding back AC power". It appears this should be "feeding back power", as the external DC energy storage device does not output AC power, but rather DC power that is converted to AC by the bi-directional AC/DC power supply. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-7 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 1 recites the limitation "said secondary sources" in lines 21-22. There is insufficient antecedent basis for this limitation in the claim. It is not clear what the secondary sources are that the claim is referring to. Claims 2-7 inherit this deficiency.

9. Regarding claim 13, the phrase "a battery backup system" renders the claim(s) indefinite because it lacks antecedent basis in the specification, and the claim(s) include(s) elements not actually disclosed (the elements of the "system" other than the battery, and their interconnections), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Allowable Subject Matter***

10. Claims 9-12 and 14-43 allowed.
11. Claims 1-7 and 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.
12. The following is a statement of reasons for the indication of allowable subject matter: Claims 1-7 and 13 contain allowable subject matter because none of the prior art of record discloses or suggests delivering excess power from a DC source back into an AC source, in combination with the remaining claimed features.
13. The following is an examiner's statement of reasons for allowance: Claims 9-12 and 14-43 are allowed because none of the prior art of record discloses or suggests feeding back excess power from a DC source to an AC source or input connection, in combination with the remaining claimed features.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

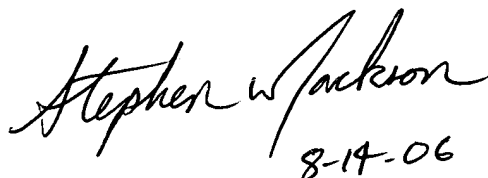
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal I. Kaplan whose telephone number is 571-272-8587. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on 571-272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

hik



8-14-06

STEPHEN W. JACKSON  
PRIMARY EXAMINER